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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of
QUESTAR GAS COMPANY
to Adjust Rates for Natural Gas Service
in Utah

**PETITION TO ADJUST
QUESTAR GAS COMPANY'S 191
PASS-THROUGH ACCOUNT**

Docket No. 03-057-05

Pursuant to Commission Rule R746-100-3, the Utah Committee of Consumer Services
("Committee") petitions the Public Service Commission of Utah ("Commission") as follows:

INTRODUCTION

1. The August 1, 2003 unanimous decision of the Utah Supreme Court in *Committee of Consumer Services v. Public Service Commission*, 2003 UT 29 (Aug. 1, 2003) "reverse[d] the Commission's order and reject[ed] the rate increase proposed by the CO₂ Stipulation" which had allowed Questar Gas Company (or "Company") since 1999 to recover coal seam gas processing costs incurred under an affiliate contract in customer rates.

2. The Court's reversal is clear and straight-forward; and is not coupled with any remand or other instruction to the Commission authorizing or empowering the Commission to make further

findings of fact or law or to otherwise continue the controversy.¹ A final legal disposition of the controversy has thus occurred. Upon receipt of the mandate and record on appeal from the Utah Supreme Court, which should shortly occur, the Commission's duty is to render final judgment and give prompt effect to the Court's decision. That can best be accomplished in this Docket.

DISCUSSION

3. The Commission's June 20, 2003 Order in this Docket granted Questar Gas Company a 24.57% interim rate increase of \$146,457,000 in its 191 Pass-Through Account, effective July 1, 2003, "pending final resolution of issues raised by the application." (June 20, 2003 Order, Page 1).

4. The Commission's December 30, 2002 Order in the Company's last general rate case, Docket No. 02-057-02, approved a stipulation of the parties whereby coal seam gas processing expenses (sometimes referred to as "CO₂ costs" or "CO₂ gas processing costs") and their recovery in rates would thenceforth be addressed in the Company's 191 Pass-Through Account proceedings.²

¹As such, the Court's decision in this appeal stands in sharp contrast to its decision in Questar Gas Company's appeal of the Commission's order in Docket no. 98-057-12, where the Court in that case "set aside" the Commission's order and "remand[ed]" the case back to the Commission with a long paragraph of instructions directing further review and determination by the Commission. See *Questar Gas v. Utah Public Service Comm'n*, 34 P.3d 218 (Utah 2001).

²See pages 44-46 of Commission's December 30, 2003 Order in Docket No. 02-057-02, and attached Allocation and Rate-Design Stipulation and Settlement.

5. This current 191 Pass-Through Account Docket is thus a proper and efficient proceeding in which to implement the Utah Supreme Court's August 1, 2003 decision.

6. The Court's decision makes the Company's recovery of coal seam gas processing costs in rates unlawful.³ The Company therefore needs to promptly cease further collecting such costs in customer rates and further needs to promptly refund to its customers any and all monies already collected in rates for such expenses.

7. The Committee submits that the refund should be accomplished by crediting the heretofore collected amounts (estimated at approximately \$21 million, plus interest) against the current interim pass-through rate increase awarded in this Docket of \$146,357,000, which increase went into effect July 1, 2003.⁴

8. Alternatively, the Commission may want to consider an amortization of the refund obligation in a manner that will return the unlawfully collected monies to customers over a period of time similar to the time frame in which they were collected from customers. Any such amortization of the

³"Every unjust or unreasonable charge made, demanded or received for [any] product or commodity or service is hereby prohibited and declared unlawful." Utah Code § 54-3-1.

⁴The Committee notes that a small percentage of the CO₂ expenses were paid by transportation customers who do not pay other Account 191 expenses. The refund to these customers can presumably be accomplished through Account 191 credits on these customers' bills, or through some other mechanism.

refund obligation would have to carry interest on the unamortized refund balance for the benefit of customers.

PETITION

9. The Committee accordingly petitions the Commission to set new interim rates in this Docket effective September 1, 2003, reflecting: (i) the refund credit plus interest; and (ii) the cessation of any further collection of coal seam gas processing expenses. The company should also be directed to properly adjust the monthly payments of its customers on the equal payment plan to reflect such change in rates.

10. The Committee petitions the Commission to order the Company to include a clear and concise explanation of the Utah Supreme Court's decision and consequent rate reduction as an insert in its September 2003 customer bills. The insert should be reviewed by the Division of Public Utilities and Committee of Consumer Services and approved by the Commission prior to its mailing to the Company's customers.

11. The Committee further petitions the Commission to set a hearing date as soon as reasonably possible to allow the parties to consider and otherwise respond to the rate implementation required by the Utah Supreme Court's final disposition of this matter.

DATED this 8th day of August, 2003.

Reed T. Warnick
Attorney for the Utah Committee of Consumer Services

CERTIFICATE OF SERVICE

I certify that on I caused to be mailed or hand-delivered the foregoing **PETITION TO ADJUST QUESTAR GAS COMPANY'S 191 PASS-THROUGH ACCOUNT** in Docket 03-057-05 this _____ day of August, 2003.

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